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ATTORNEYS FOR SCOTT M. SEIDEL, TRUSTEE

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

In re:	§	Chapter 7
	§	
WALNUT HILL PHYSICIANS	§	Case No. 17-32255-bjh-7
HOSPITAL, LLC,	§	
	§	
Debtor.	§	
	§	
SCOTT M. SEIDEL, TRUSTEE,	§	
	§	ADV. PRO. NO. 18-03217-
	§	bjh
Plaintiff,	§	
	§	
vs.	§	
	§	
BOSTON SCIENTIFIC CORPORATION,	§	
	§	
	§	
Defendant.	§	

TRUSTEE’S REQUEST FOR CLERK’S ENTRY OF DEFAULT

TO THE CLERK OF THE HONORABLE COURT:

COMES NOW Scott M. Seidel, the duly-appointed chapter 7 trustee (the “Trustee”), the plaintiff in this Adversary Proceeding commenced against Boston Scientific Corporation (the “Defendant”), and files this his *Request for Clerk’s Entry of Default*, respectfully stating as follows:

1. On January 28, 2019, the Trustee filed his *First Amended Complaint* [docket no. 31] (the “Amended Complaint”).

2. The Trustee previously obtained leave from the Court to file the Amended Complaint. *See* Docket No. 29.

3. Bankruptcy Rule 7015 incorporates Rule 15 of the Federal Rules of Civil Procedure. Said Rule 15, in turn, provides that, “[u]nless the court orders otherwise, any required response to an amended pleading must be made within the time remaining to respond to the original pleading or within 14 days after service of the amended pleading, whichever is later.” FED. R. CIV. P. 15(a)(3).

4. In granting the Trustee leave to file his Amended Complaint, the Court did not “order otherwise,” meaning that the deadline for the Defendant to answer the Amended Complaint was February 11, 2019—14 days after the January 28, 2019 filing of the Amended Complaint.

5. As evidenced by the Declaration of Davor Rukavina, attached hereto as Exhibit “A” and incorporated herein, the Defendant did not file any answer or responsive pleading to the Amended Complaint by February 11, 2019, and has not filed any such answer or responsive pleading as of the date hereof. The Defendant likewise has not requested or obtained any extension of said deadline.

6. Bankruptcy Rule 7055 incorporates Rule 55 of the Federal Rules of Civil Procedure. Said Rule 55, in turn, provides that:

Entering a Default. When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party’s default.

FED. R. CIV. P. 55(a).

7. Accordingly, the Defendant's failure to answer the Amended Complaint has been shown to the Clerk by this Request and the attached Declaration, and the Clerk must enter the Defendant's default.

WHEREFORE, PREMISES CONSIDERED, the Trustee respectfully requests that the Clerk enter the Defendant's default on the docket of this Adversary Proceeding, noting that the Defendant has defaulted with respect to the Amended Complaint.

RESPECTFULLY SUBMITTED this 31st day of May, 2019.

MUNSCH HARDT KOPF & HARR, P.C.

By: /s/ Davor Rukavina
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that, on the 31st day of May, 2019, true and correct copies of this document were served via the Court's ECF system on the persons entitled to notice thereby, including on counsel for the Defendant.

By: /s/ Davor Rukavina
Davor Rukavina, Esq.